

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY

Plaintiff,

v.

WARFIELD-ROHR CASKET COMPANY, INC.

Defendant.

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Civil Action No. WMN-01-2872

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**WARFIELD-ROHR CASKET COMPANY, INC.'S RESPONSE
TO EEOC'S MOTION TO CLARIFY ORDER OF JUDGMENT**

Warfield-Rohr Casket Company, Inc. ("Warfield-Rohr"), by its attorneys submits this response to the EEOC's Motion to Clarify Order of Judgment and states as follows:

1. The EEOC's contention that Warfield-Rohr has been stalling payment of the judgment entered in this case is simply wrong.
2. On November 16, 2005, the EEOC sent the undersigned a letter requesting payment of the judgment and interest. Exhibit 1.
3. By email dated November 22, 2005, the undersigned advised that it had a check in the total amount requested made payable to the EEOC ready to be picked up. Exhibit 2.
4. The EEOC refused to accept the check. Exhibit 3.
5. Warfield-Rohr is not aware of any case law or court rule prohibiting it from satisfying the judgment by paying the EEOC or requiring that payment be made directly to Mr. Kuehnl. Indeed, the check was made payable to the EEOC at the direction of Warfield-Rohr's accountant.

6. Nevertheless, as an accommodation to the EEOC, Warfield-Rohr issued new checks made payable directly to Mr. Kuehnl in the gross amount requested by the EEOC. One check covered the liquidated damages and interest portion of the award. The other check covered the back pay portion of the award, with the appropriate withholdings deducted. On December 7, 2005, the undersigned made the checks available to the EEOC and Mr. Kuehnl as full satisfaction of the monetary aspects of the judgment. Exhibit 4.

7. The EEOC refused to sign Exhibit 4, apparently because it does not want to waive the costs it sought in this action.

8. The EEOC sought costs after the entry of judgment, which Warfield-Rohr opposed. The Court, in its final order of September 6, 2005, made no mention of the costs requested by the EEOC.

9. Regardless, Warfield-Rohr believed it reasonable that the EEOC should waive its right to any potential recovery of costs in exchange for Warfield-Rohr paying Mr. Kuehnl directly because the EEOC would be avoiding the time and expense of having to process the settlement funds (and withhold taxes), as well as the time, expense, and uncertainties of attempting to enforce and collect the judgment.¹

10. This case has been pending since 2001. Warfield-Rohr has offered to pay the amount requested by the EEOC (which is in excess of \$400,000) in the manner requested, i.e., directly to Mr. Kuehnl. All Warfield-Rohr is requesting is closure and a satisfaction of the money judgment.

¹ The EEOC also appears concerned about Warfield-Rohr paying it \$546.00 in costs awarded by the fourth circuit on September 27, 2005 for the prior appeal in this case. Although Warfield-Rohr believes it would not be unreasonable for the EEOC to waive this nominal amount in exchange for Warfield-Rohr voluntarily paying the judgment in the manner requested by the EEOC, it agrees to pay this amount.

WHEREFORE, Warfield-Rohr requests that the Court deny the EEOC's motion and order that it accept the tender made by Warfield-Rohr as full satisfaction of the money judgment in this case.

Respectfully submitted,

/s/ Charles S. Hirsch

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Attorney for Warfield-Rohr Casket Company, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of December 2005 a copy of the foregoing Warfield-Rohr Casket Company, Inc.'s Response to EEOC's Motion to Clarify Order of Judgment was sent electronically to:

Regina M. Andrew, Esquire
Equal Employment Opportunity Commission
Baltimore District Office
10 South Howard Street
Third Floor
Baltimore, Maryland 21201

/s/ Charles S. Hirsch
Charles S. Hirsch